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The insecticide act of 1910.



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## THE INSECTICIDE ACT OF 1910.

An Act For preventing the manufacture, sale, or transportation of adulterated or misbranded Paris greens, lead arsenates, and other insecticides, and also fungicides, and for regulating traffic therein, and for other purposes. (36 Stat., 331.)

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That it shall be unlawful for any person to manufacture within any Territory or the District of Columbia any insecticide, Paris green, lead arsenate, or fungicide which is adulterated or misbranded within the meaning of this act; and any person who shall violate any of the provisions of this section shall be guilty of a misdemeanor, and shall, upon conviction thereof, be fined not to exceed two hundred dollars for the first offense, and upon conviction for each subsequent offense be fined not to exceed three hundred dollars, or sentenced to imprisonment for not to exceed one year, or both such fine and imprisonment, in the discretion of the court.

SEC. 2. That the introduction into any State or Territory or the District of Columbia from any other State or Territory or the District of Columbia, or from any foreign country, or shipment to any foreign country, of any insecticide, or Paris green, or lead arsenate, or fungicide which is adulterated or misbranded within the meaning of this act is hereby prohibited; and any person who shall ship or deliver for shipment from any State or Territory or the District of Columbia to any other State or Territory or the District of Columbia, or to a foreign country, or who shall receive in any State or Territory or the District of Columbia from any other State or Territory or the District of Columbia, or foreign country, and having so received, shall deliver, in original unbroken packages, for pay or otherwise, or offer to deliver, to any other person, any such article so adulterated or misbranded within the meaning of this act, or any person who shall sell or offer for sale in the District of Columbia or any Territory of the United States any such adulterated or misbranded insecticide, or Paris green, or lead arsenate, or fungicide, or export or offer to export the same to any foreign country, shall be guilty of a misdemeanor, and for such offense be fined not exceeding two hundred dollars for the first offense, and upon conviction for each subsequent offense not exceeding three hundred dollars, or be imprisoned not exceeding one year, or both, in the discretion of the court: *Provided*, That no article shall be deemed misbranded or adulterated within the provisions of this act when intended for export to any foreign country and prepared or packed according to the specifications or directions of the foreign purchaser; but if said articles shall be in fact sold or offered for sale for domestic use or consumption, then this proviso shall not exempt said article from the operation of any of the other provisions of this act.

SEC. 3. That the Secretary of the Treasury, the Secretary of Agriculture, and the Secretary of Commerce and Labor shall make uniform rules and regulations for carrying out the provisions of this act, including the collection and examination of specimens of insecticides, Paris greens, lead arsenates, and fungicides manufactured or offered for sale in the District of Columbia or in any Territory of the United States, or which shall be offered for sale in unbroken packages in any State other than that in which they shall have been respectively manufactured or produced, or which shall be received from any foreign country or intended for shipment to any foreign country, or which may be submitted for examination by the director of the experiment station of any State, Territory, or the District of Columbia (acting under the direction of the Secretary of Agriculture), or at any domestic or foreign port through which such product is offered for interstate commerce, or for export or import between the United States and any foreign port or country.

SEC. 4. That the examination of specimens of insecticides, Paris greens, lead arsenates, and fungicides shall be made in the Department of Agriculture, by



such existing bureau or bureaus as may be directed by the Secretary, for the purpose of determining from such examination whether such articles are adulterated or misbranded within the meaning of this act; and if it shall appear from any such examination that any of such specimens are adulterated or misbranded within the meaning of this act, the Secretary of Agriculture shall cause notice thereof to be given to the party from whom such sample was obtained. Any party so notified shall be given an opportunity to be heard, under such rules and regulations as may be prescribed as aforesaid, and if it appears that any of the provisions of this act have been violated by such party, then the Secretary of Agriculture shall at once certify the facts to the proper United States district attorney, with a copy of the results of the analysis or the examination of such article duly authenticated by the analyst or officer making such examination, under the oath of such officer. After judgment of the court, notice shall be given by publication in such manner as may be prescribed by the rules and regulations aforesaid.

SEC. 5. That it shall be the duty of each district attorney to whom the Secretary of Agriculture shall report any violation of this act, or to whom any director of experiment station or agent of any State, Territory, or the District of Columbia, under authority of the Secretary of Agriculture, shall present satisfactory evidences of any such violation, to cause appropriate proceedings to be commenced and prosecuted in the proper courts of the United States, without delay, for the enforcement of the penalties as in such case herein provided.

SEC. 6. That the term "insecticide" as used in this act shall include any substance or mixture of substances intended to be used for preventing, destroying, repelling, or mitigating any insects which may infest vegetation, man or other animals, or households, or be present in any environment whatsoever. The term "Paris green" as used in this act shall include the product sold in commerce as Paris green and chemically known as the aceto-arsenite of copper. The term "lead arsenate" as used in this act shall include the product or products sold in commerce as lead arsenate and consisting chemically of products derived from arsenic acid ( $\text{H}_3\text{AsO}_4$ ) by replacing one or more hydrogen atoms by lead. That the term "fungicide" as used in this act shall include any substance or mixture of substances intended to be used for preventing, destroying, repelling, or mitigating any and all fungi that may infest vegetation or be present in any environment whatsoever.

SEC. 7. That for the purpose of this act an article shall be deemed to be adulterated—

In the case of Paris green: First, if it does not contain at least fifty per centum of arsenious oxide; second, if it contains arsenic in water-soluble forms equivalent to more than three and one-half per centum of arsenious oxide; third, if any substance has been mixed and packed with it so as to reduce or lower or injuriously affect its quality or strength.

In the case of lead arsenate: First, if it contains more than fifty per centum of water; second, if it contains total arsenic equivalent to less than twelve and one-half per centum of arsenic oxid ( $\text{As}_2\text{O}_5$ ); third, if it contains arsenic in water-soluble forms equivalent to more than seventy-five one-hundredths per centum of arsenic oxid ( $\text{As}_2\text{O}_5$ ); fourth, if any substances have been mixed and packed with it so as to reduce, lower, or injuriously affect its quality or strength: *Provided, however,* That extra water may be added to lead arsenate (as described in this paragraph) if the resulting mixture is labeled lead arsenate and water, the percentage of extra water being plainly and correctly stated on the label.

In the case of insecticides or fungicides, other than Paris green and lead arsenate: First, if its strength or purity fall below the professed standard or quality under which it is sold; second, if any substance has been substituted wholly or in part for the article; third, if any valuable constituent of the article has been wholly or in part abstracted; fourth, if it is intended for use on vegetation and shall contain any substance or substances which, although preventing, destroying, repelling, or mitigating insects, shall be injurious to such vegetation when used.

SEC. 8. That the term "misbranded" as used herein shall apply to all insecticides, Paris greens, lead arsenates, or fungicides, or articles which enter into the composition of insecticides or fungicides, the package or label of which shall bear any statement, design, or device regarding such article or the ingredients or substances contained therein which shall be false or misleading in any particular, and to all insecticides, Paris greens, lead arsenates, or fungicides which



are falsely branded as to the State, Territory, or country in which they are manufactured or produced.

That for the purpose of this act an article shall be deemed to be misbranded—

In the case of insecticides, Paris greens, lead arsenates, and fungicides: First, if it be an imitation or offered for sale under the name of another article; second, if it be labeled or branded so as to deceive or mislead the purchaser, or if the contents of the package as originally put up shall have been removed in whole or in part and other contents shall have been placed in such package; third, if in package form, and the contents are stated in terms of weight or measure, they are not plainly and correctly stated on the outside of the package.

In the case of insecticides (other than Paris greens and lead arsenates) and fungicides: First, if it contains arsenic in any of its combinations or in the elemental form and the total amount of arsenic present (expressed as per centum of metallic arsenic) is not stated on the label; second, if it contains arsenic in any of its combinations or in the elemental form and the amount of arsenic in water-soluble forms (expressed as per centum of metallic arsenic) is not stated on the label; third, if it consists partially or completely of an inert substance or substances which do not prevent, destroy, repel, or mitigate insects or fungi and does not have the names and percentage amounts of each and every one of such inert ingredients plainly and correctly stated on the label: *Provided, however*, That in lieu of naming and stating the percentage amount of each and every inert ingredient the producer may at his discretion state plainly upon the label the correct names and percentage amounts of each and every ingredient of the insecticide or fungicide having insecticidal or fungicidal properties, and make no mention of the inert ingredients, except in so far as to state the total percentage of inert ingredients present.

SEC. 9. That no dealer shall be prosecuted under the provisions of this act when he can establish a guaranty signed by the wholesaler, jobber, manufacturer, or other party residing in the United States, from whom he purchased such articles, to the effect that the same is not adulterated or misbranded within the meaning of this act, designating it. Said guaranty, to afford protection, shall contain the name and address of the party or parties making the sale of such articles to such dealer, and in such case said party or parties shall be amenable to the prosecutions, fines, and other penalties which would attach in due course to the dealer under the provisions of this act.

SEC. 10. That any insecticide, Paris green, lead arsenate, or fungicide that is adulterated or misbranded within the meaning of this act and is being transported from one State, Territory, or District, to another for sale, or, having been transported, remains unloaded, unsold, or in original unbroken packages, or if it be sold or offered for sale in the District of Columbia or any Territory of the United States, or if it be imported from a foreign country for sale, shall be liable to be proceeded against in any district court of the United States within the district wherein the same is found and seized for confiscation by a process of libel for condemnation.

And if such article is condemned as being adulterated or misbranded, within the meaning of this act, the same shall be disposed of by destruction or sale as the said court may direct, and the proceeds thereof, if sold, less the legal costs and charges, shall be paid into the Treasury of the United States, but such goods shall not be sold in any jurisdiction contrary to the provisions of this act or the laws of that jurisdiction: *Provided, however*, That upon the payment of the costs of such libel proceedings and the execution and delivery of a good and sufficient bond to the effect that such articles shall not be sold or otherwise disposed of contrary to the provisions of this act or the laws of any State, Territory, or District, the court may by order direct that such articles be delivered to the owner thereof. The proceedings of such libel cases shall conform, as near as may be, to the proceedings in admiralty, except that either party may demand trial by jury of any issue of fact joined in any such case, and all such proceedings shall be at the suit of and in the name of the United States.

SEC. 11. That the Secretary of the Treasury shall deliver to the Secretary of Agriculture, upon his request, from time to time, samples of insecticides, Paris greens, lead arsenates, and fungicides which are being imported into the United States or offered for import, giving notice thereof to the owner or consignee, who may appear before the Secretary of Agriculture and have the right to introduce testimony; and if it appear from the examination of such samples that any insecticide, or Paris green, or lead arsenate, or fungicide offered to be imported into the United States is adulterated or misbranded within the meaning of this



act, or is otherwise dangerous to the health of the people of the United States, or is of a kind forbidden entry into or forbidden to be sold or restricted in sale in the country in which it is made or from which it is exported, or is otherwise falsely labeled in any respect, the said article shall be refused admission, and the Secretary of the Treasury shall refuse delivery to the consignee and shall cause the destruction of any goods refused delivery which shall not be exported by the consignee within three months from the date of notice of such refusal under such regulations as the Secretary of the Treasury may prescribe: *Provided*, That the Secretary of the Treasury may deliver to the consignee such goods pending examination and decision in the matter on execution of a penal bond for the amount of the full invoice value of such goods, together with the duty thereon, and on refusal to return such goods for any cause to the custody of the Secretary of the Treasury, when demanded, for the purpose of excluding them from the country, or for any other purpose, said consignee shall forfeit the full amount of the bond: *And provided further*, That all charges for storage, cartage, and labor on goods which are refused admission or delivery shall be paid by the owner or consignee, and in default of such payment shall constitute a lien against any future importation made by such owner or consignee.

SEC. 12. That the term "Territory," as used in this act, shall include the District of Alaska and the insular possessions of the United States. The word "person," as used in this act, shall be construed to import both the plural and the singular, as the case demands, and shall include corporations, companies, societies, and associations. When construing and enforcing the provisions of this act, the act, omission, or failure of any officer, agent, or other person acting for or employed by any corporation, company, society, or association, within the scope of his employment or office, shall in every case be also deemed to be the act, omission, or failure of such corporation, company, society, or association, as well as that of the other person.

SEC. 13. That this act shall be known and referred to as "The insecticide act of 1910."

SEC. 14. That this act shall be in force and effect from and after the first day of January, nineteen hundred and eleven.

Approved, April 26, 1910.



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